

Remarks

Claims 1-19 were pending in this case. Claims 1-19 were rejected. Claims 3-4, 9 and 15-19 have been cancelled, without prejudice, by this paper. Claim 1 was amended. Support for this amendment can be found through the specification and particularly at page 2, lines 10 – 12, and page 10, line 20.

Claims 1, 12, 15 and 17 were rejected under 35 USC § 112, second paragraph because it was maintained that it was unclear how R1 and R2 were oriented with respect to each other. Applicants respectfully maintain that one skilled in the art would understand the term “ortho or para substituent” to refer to the R group’s position as a substituent on the phenyl ring, i.e. with reference to the attachment point of the ring.

Claim 9 was rejected under 35 USC § 112, second paragraph. This rejection is deemed moot as the claim has been cancelled, without prejudice.

Claims 1-14 were rejected under 35 USC § 102(b) as anticipated by WO 02/50017. Applicants respectfully traverse this rejection. Anticipation requires that the prior art teach every element of the claimed invention. The '50017 application does not teach every aspect of Applicant's claimed invention and thus does not anticipate the claimed invention.

The '50017 application teaches a process of preparing phenethylamine derivatives whereby a Raney nickel or cobalt catalyst is pretreated, preferably with a carboxylic acid and hydrogenation is performed at 27-30° C (Example 1) or 60°C (Examples 2-10).

Applicants have found that pretreatment of the catalyst and hydrogenation at temperatures above room temperature, such as described in the '50017 application, leads to the production of impurities. Applicants claim a process whereby pretreatment of the catalyst is eliminated. Further hydrogenation is performed at room temperature or below (10-20°C). See page 11, line 21.

In view of the foregoing, Applicants respectfully maintain that the '50017 application does not anticipate Applicants' claimed invention and request withdrawal of this rejection.

Claims 15 and 16 were rejected under 35 USC § 102(b) as being anticipated by J. of Medicinal Chemistry (1990), 33(10), p. 2899-2906. Claims 15 and 16 were cancelled, without prejudice, by this paper, making this rejection moot.

Claims 17-19 were rejected under 35 USC § 102(b) as being anticipated by WO 00/58951. Claims 17-19 were cancelled, without prejudice, by this paper, making this rejection moot.

In view of the foregoing, Applicants respectfully maintain that Claims 1, 2, 5-8 and 10-14 are in condition ready for allowance. An early and favorable notice of allowance is respectfully solicited.



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